

Prison conditions in Italy

Susanna Marietti

European Prison Observatory. Detention conditions in the European Union



With financial support from the
Criminal Justice Programme of
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Susanna Marietti
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THE EUROPEAN PRISON OBSERVATORY

The European Prison Observatory is a project coordinated by the Italian Ngo Antigone, and developed with financial support from the Criminal Justice Programme of the European Union. The partner organizations are:

Università degli Studi di Padova - Italy

Observatoire international des prisons - section française - France

Special Account of Democritus University of Thrace Department of Social Administration (EL DUTH) - Greece

Latvian Centre for Human Rights - Latvia

Helsinki Foundation for Human Rights - Poland

ISCTE - Instituto Universitário de Lisboa - Portugal

Observatory of the Penal System and Human Rights - Universidad de Barcelona - Spain

Centre for Crime and Justice Studies – United Kingdom

The European Prison Observatory studies, through quantitative and qualitative analysis, the condition of the national prison systems and the related systems of alternatives to detention, comparing these conditions to the international norms and standards relevant for the protections of detainees' fundamental rights.

The European Prison Observatory highlights to European experts and practitioners 'good practices' existing in the different countries, both for prison management and for the protection of prisoners' fundamental rights.

Finally it promotes the adoption of the CPT standards and of the other international legal instruments on detention as a fundamental reference for the activities of the available national monitoring bodies.

www.prisonobservatory.org

PRISON CONDITIONS IN EUROPE

The collection and organization of available data on the penitentiary systems of each country has been coordinated by the Università degli Studi di Padova, that developed and tested a comprehensive data collection grid to collect the information required to describe the different national penitentiary systems. The data collection grid has been developed having in mind as main reference the European Prison Rules (Council of Europe. Recommendation Rec(2006)2. Adopted on 11 January 2006), and the informations collected in every country monitored by the Observatory, and presented in these Reports on prison conditions, describe every national penitentiary system, focusing in particular on its compliance with the European Prison Rules.

The research activities have been carried out by the project partners, that drafted a report on prison conditions in their country. Further information and all the national reports can be found on the project website.

GENERAL DATA*

*updated to December 2012 for daily data and to the entire 2012 for flow data

1. **Total population of the country:** 59.433.744 (December 2011, last census)
2. **Total prison population rate per 100,000 inhabitants:** 110,54

Adult prisons¹

3. **Number of prisoners (including pre-trial detainees):** 65.701
4. **Number (and % of the total number of inmates) of detainees serving a final sentence (i.e. excluding pre-trial detainees):** 38.656 - 58,8%
5. **Total capacity of penal institutions (with reference to legal criteria. If legal criteria are not available explain the reasons for this lack of information):** 47.040. But recently the Ministry of Justice admitted – however informally – that, owing to the sections that are closed because of the lack of funds for their maintenance, the real number of places is much lower.
6. **M² provided per prisoner (legal criteria):** there are not specific criteria for prisons. The only law that is taken into account is a Department of Health rule (1975, July 5th) that establishes the space criteria for housing. It states that a one-person sleeping room must have a minimum surface of 9 square meters, while a two-person sleeping room must have a minimum surface of 14 square meters.
7. **Actual surface for prisoner (m²) (i.e. m² available divided per total number of prisoners):** the Ministry of Justice never calculated this datum. It is impossible for us to calculate it, as we don't know the overall surface of the sleeping rooms in the 206 Italian prisons. Furthermore, in the last years many other spaces have been converted into cells, what makes the estimation of the datum even more difficult.
8. **Prison density – total number of prisoners in relation to capacity (%):** 139,68
9. **Number of foreign prisoners (and % of the total number of inmates):** 23.492 - 35,7%

¹ All data come from the Ministry of Justice, except when a different source is explicitly mentioned.

10. **Number of foreign pre-trial detainees (and % of the total number of inmates):** 10.571 – 16,08%
11. **Number (and % of the total number of inmates) of female detainees:** 2.804 – 4,26%
12. **Number of female foreign inmates:** 1.128
13. **% of female foreign prisoners of the total number of female prisoners:** 40,22%
14. **% of female foreign prisoners of the total number of foreign prisoners:** 4,8%
15. **Number of prisoners (including pre-trial detainees) between 18 and 20 (inclusive) years of age (and % of total prison population):** 1.058 (up to 20 years old) – 1,6%
16. **Total number of entries to prison facilities:** 63.020
17. **Total number of deaths in penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example, in ambulances, in hospitals etc.):** 153 (data by the Ministry of Justice), 154 (data by the Ngo Ristretti Orizzonti): the Ministry of Justice considers only people died inside the prisons, while the Ngos considers also prisoners died outside prison.
18. **Total number of suicides in penal institutions (specify if this datum includes only the detainees who died – from suicide – inside the prisons or if it also includes those who died outside the prisons – for example in ambulances, in hospitals etc.):** 56 (data by the Ministry of Justice), 60 (data by the Ngo Ristretti Orizzonti): the Ministry of Justice considers only people died inside the prisons, while the Ngo considers also prisoners died outside.
19. **Budget for the Justice System and % of Gross Domestic Product:** 7.576.000.000 Euros; 0,48% of the Gdp.
20. **Specific budget aimed at penal institutions and % of the previous:** 2.802.000.000 Euros; 36,98% of the budget for the Justice System.
21. **Specific budget for staff and % of budget for penal institutions:** 2.470.323.501 Euros; 88,16% of the budget for penal institutions.
22. **Specific budget for prison facilities and % of budget for penal institutions:** 130.574.222 Euros; 4,66% of the budget for penal institutions.
23. **Specific budget for inmates (support, activities, etc.) and % of budget for penal institutions:** 181.036.610 Euros; 6,46% of the budget for penal institutions.

Juvenile prisons

- 24. Number of juvenile prisoners (including pre-trial detainees):** the data at December 2012 is not available up to now. We know, however, that 509 is the daily average in 2012 and that 489 is the number of prisoners at November 19th 2012.
- 25. Number (and % of all juvenile inmates) of juvenile detainees serving a final sentence (i.e. excluding pre-trial detainees):** the Ministry of Justice does not provide the daily datum about pre-trial detainees and detainees serving a final sentence. This datum is calculated as a flow datum on the number of entries. In the first semester 2012 (the last available datum), the number of entries related to prisoners serving a final sentence was 146 (21,89%).
- 26. Total capacity of juvenile penal institutions (with reference to legal criteria):** 568
- 27. M² provided per juvenile prisoner (legal criteria):** there are not specific criteria for prisons. The only law that is taken into account is a Department of Health rule (1975, July 5th) that establishes the space criteria for housing. It states that a one-person sleeping room must have a minimum surface of 9 square meters, while a two-person sleeping room must have a minimum surface of 14 square meters.
- 28. Actual surface available per juvenile prisoner (m²) (i.e. m² available divided per total number of prisoners):** as for the adults, we don't have this datum. However, in the case of juvenile prisons we can affirm that no additional space has been converted into sleeping rooms and that, notwithstanding two institutes are actually closed, the penitentiary system is not overcrowded.
- 29. Prison density – total number of juvenile prisoners in relation to capacity (%):** 86,09%
- 30. Number of foreign juvenile prisoners (and % of the total number of juvenile inmates):** the datum at December 2012 is not available up to now. On 30th June 2012, the foreign prisoners were 208 (38,4%). The number of entries related to foreign prisoners in 2012 was 587 (46,88%).
- 31. Number of foreign juvenile pre-trial detainees (and % of the total number of juvenile inmates):** the Ministry of Justice does not provide the daily datum about pre-trial detainees and detainees serving a final sentence. This datum is calculated as a flow datum on the number of entries. In the first semester 2012 (the last available datum), the number of entries related to foreign pre-trial detainees was 254 (25,4%).

- 32. Number (and % of the total number of juvenile inmates) of female juvenile detainees:** the datum at December 2012 is not available up to now. On 30th June 2012, the female detainees were 38 (7,02%). The number of entries related to female prisoners in 2012 was 137 (10,94%).
- 33. Number of female juvenile foreign inmates:** the datum at December 2012 is not available up to now. On 30th June 2012, the female foreign detainees were 32. The number of entries related to female foreign prisoners in 2012 was 119.
- 34. % of female juvenile foreign prisoners of the number of all female juvenile prisoners:** 84,21% (30th June 2012), 86,86% (percentage of entries in 2012).
- 35. % of female juvenile foreign prisoners of the total number of juvenile foreign prisoners:** 15,38% (30th June 2012), 20,27% (percentage of entries in 2012).
- 36. Number of prisoners (including pre-trial detainees) between 18 and 20 (inclusive) years of age (and % of total juvenile prison population):** the datum at December 2012 is not available up to now. On 30th June 2012, the prisoners from 18 years old to less than 21 years old were 278 (51,39%).
- 37. Total number of entries to juvenile prison facilities:** 1.252
- 38. Total number of deaths in juvenile penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example, in ambulances, in hospitals, etc.):** 0
- 39. Total number of suicides in juvenile penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example in ambulances, in hospitals, etc.):** 0

GENERAL DESCRIPTION OF THE ITALIAN PENITENTIARY SYSTEM

The Italian prison system is ruled by a law issued in 1975, which has since then been modified many times, becoming more or less rigid according to contingencies and to the various real or claimed emergencies. The law is based on the concept of penitentiary treatment aiming at reeducation. Therefore, a “scientific observation of the personality” of each prisoner is to take place in order to identify the best individual path to reintegrate the detainee into society. The punishment given by sentences is “flexible”, that is to say it can be reduced if the prisoner behaves according to prison and treatment rules. Treatment and security are at the opposite limits of the system. Prison staff is in charge either of the one or of the other. The warden, who has accomplished a civilian course of studies, is at the top of the entire hierarchy. He or she is responsible for security and for treatment matters, as well as for the budget. The warden is supposed to be something like a manager looking for funds outside the prison system. The prison police is responsible for the inner security. The policemen wear a uniform. They are not soldiers. They are employed by the Ministry of Justice and are unionized. They are also responsible for the prisoner transfers outside jail. The heads of the sections have to account for their actions and decisions to the warden. Educators and social assistants are responsible for whatever concerns social issues and reeducation. They also, like the chaplain, are employees of the Ministry of Justice. Educators compose the so-called “pedagogical area” and they work inside prison. Social assistants work outside and are in charge of the relationships between prisoners and their families as well as the whole territorial community. Psychologists are in some cases employed by the Ministry of Justice while in others by the National Health Service. Physicians and healthcare assistants are employed by the National Health Service. School teachers are employed by the Ministry of Education. All the other operators are occasional workers employed by the local authorities or by cooperative societies. The penitentiary system is unique but it is structured in regional branches. There are 206 prisons. Some of them are located in historical buildings (old fortresses or monasteries) and some others in more recent buildings. In the late Eighties the last prisons have been built. The construction of them has been the object of penal inquiries concerning corruption. In a few years entire sections have become useless as a consequence of the poor quality of the material employed. In March 2010, the Government approved a building plan for increasing the penitentiary system capacity. Around 350.000.000 Euros are at the moment available for the construction of 4 new prisons and 16 new wings in already existing prisons. Up to now, in three years nothing has been built.

CONDITIONS OF IMPRISONMENT

ADMISSION

a. At admission many details concerning the prisoner shall be immediately recorded (for example, the identity of the prisoner, the reason for commitment, etc.). What kinds of data are recorded? Among the information collected are any visible injuries and complaints about prior ill-treatment also recorded?

The law states that on entering prison the prisoner should be searched and his fingerprints should be taken. It also states that the prisoner should be visited by a physician not later than the following day and that a psychologist will examine him to check if there are problems to be pointed out to the authorities (for example to the competent health services if he is a drug addicted). The warden or, as it often happens, an educator delegated by him, interviews the prisoner to gather the necessary information in order to fill in his personal folder. The law states also that in every prison there should be a section for new arrivals where particular attention is given to new arrivals. What really happens is that, because of the lack of space (this is the administration's justification), only in a few prisons such a section exists. The physician visits the patient, takes note of his visits on a specific book (form 99) but not always he relates the signs of violence that could be related to arrest. Sometimes he does it and transmits his information to the court prosecutor. Many other times he limits himself to a superficial visit. The psychologist usually limits himself to warn bureaucratically about the risk of suicide in order to suggest a special police monitoring.

b. At admission all prisoners shall be informed in writing and orally, and in a language they understand, of the regulations governing prison discipline as well as of their rights and duties within prison. Do the institutions in Italy follow this rule?

The law states that – on his admission into jail and, if necessary, also later – prisoners should be informed about the general and specific regulations concerning their rights and duties, discipline and treatment. Foreign prisoners should be informed in their own languages. This not always happens. In many jails prisoners may undergo disciplinary punishments because they do not know that they are breaking the regulations.

c. Upon admission to prison, in the event of a prisoner's death, serious illness, serious injury, or the transfer to a hospital, the authorities shall, unless that prisoner expressly requested them not to do so, immediately inform the spouse or partner of the prisoner, or, if the prisoner is single, the nearest relative or any other person previously designated by the prisoner. Do the institutions in Italy follow this rule?

The law states that relatives should be informed that the prisoner has been arrested and also when he is seriously ill or in case of death. This not always happens. In some cases death is communicated in a cold and brutal way. Instead sometimes happens that, for his higher sensitivity and humanity, the chaplain of the prison is delegated to give the information about the death of the prisoner. It may also happen that the relatives are not informed by the prison authorities that the prisoner has been moved to another jail and desperately look for him.

d. As soon as possible after admission, the information about the health of the prisoner on admission shall be supplemented by a medical examination (in accordance with rule 42 of EPR). Does this examination really happen in Italy? How long does it take for the medical examination to be accomplished?

The first medical examination is performed rather rapidly. Physicians have a progressively reduced presence in prison due to a lack of funding of the national health service. This is why the promptness of the first medical examination is becoming more and more at risk.

e. In Italian prison are there measures in place aimed at the prevention of prisoner self-injury and suicide?

The prison administration has issued a great number of regulations for preventing suicide. A jail section for new arrivals has been imposed to the institutions, in order to give higher psychological attention to new prisoners, as it has been noted that they are more at risk. But few are the prisons having such sections and what usually happens is that new prisoners are given a bureaucratic interview by a psychologist. In the past few years the Ministry of Justice has appointed a group of experts for suicide prevention. This group has written some guidelines. Some projects has been activated in single prisons, some of them run by the penitentiary administration and some other by the national health service: psychological help, removal of alcohol from prisons (prisoners often mix it with psychopharmacological drugs), self help groups. However only in very exceptional cases a more open community life has been experimented and it has never been inquired how much the penitentiary regimen (permanence in the open air, open cells) had an influence on suicides and self injury. Prisoners at risk of suicide or self injury are deprived of all objects with which they could injure themselves (stove and gas cylinder, sheets). If the risk is high prisoners are sight controlled or located with other prisoners. Sometimes they are hosted in “smooth cells”, that is bare cells with no furniture. Thus, the person risking suicide is practically isolated and more desperate.

f. In Italian detention facilities are there some sections used for solitary confinement of the prisoners? What is it used for (for example, punishment, protection etc.)? Are there different kinds of solitary confinement?

The law allows three types of solitary confinement: for disciplinary reasons (the law calls it “exclusion from common activities”). It cannot exceed 15 days; for health reasons (according to the physician’s decision); for judiciary reasons (as prescribed by the judge when the trial makes it necessary). Furthermore, the law prescribes daily confinement as an additional punishment for prisoners with more than one life sentence. The law states that disciplinary solitary confinement should take place in the prisoner’s cell but this does not always happen. In fact there still exist confinement sections, sometimes underground and soundproof, and “smooth cells” are also used for disciplinary solitary confinement.

ALLOCATION AND ACCOMMODATION

a. Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation. Allocation shall also take into account the requirements of continuing criminal investigations, safety and security and the need to provide appropriate regimes for all prisoners.

Does this happen in Italy?

According to the law, prisoners should be allocated in prisons close to their families. People just arrested should be allocated, except for particular crimes like mafia and terrorism, close to where criminal investigation is going on. What really happens is that in very few cases prisoners are located near their homes. Because of overcrowding – this is the administration’s justification – prisoners can be transferred to institutions that are very far from their families and from where they could experience social rehabilitation. Many prisoners come from Southern Italy and are sent to the North or to Sardinia. Rarely the fact that a prisoner is attending courses or has contact with volunteers is taken into account. Collective transfers often take place at dawn to avoid the prisoners’ opposition. Again this is justified with overcrowding. Usually to be transferred are the prisoners considered more dangerous or more troublesome, without any attention to their educational and affective needs.

b. As far as possible, prisoners shall be consulted about their initial allocation and any subsequent transfers from one prison to another. Does this happen in Italy?

At admission it is taken care that co-indicted prisoners or prisoners belonging to rival criminal organizations are not put together. The prisoners are asked to mention the people they don’t want to meet in order to avoid conflicts and violence. The prisoner can ask to be transferred but he has to motivate his request. As a matter of fact, he rarely receives an answer from the penitentiary administration. Exceptionally the answer is in the positive. The criteria for making decisions are not transparent and often depend on the relationships of the prisoners or the persons protecting him. Individual and collective transfers are never decided together with the prisoner. Not rarely a prisoner who is considered dangerous is periodically, even monthly, transferred from one jail to another. A telling example is what happened at Spoleto, where a group of lifers who had been together engaged for years in study was dismembered. Some of them have been transferred very far, in prisons where they could neither study nor take university exams.

c. Do the accommodations of penitentiary institutions respect human dignity and, as far as possible, privacy, as well as meet the requirements of health and hygiene, with due regard being given to climatic conditions and especially to floor space, cubic air space, lighting, heating and ventilation?

Almost nowhere the life conditions in jail respect human dignity. On January 8th 2013, Italy has been condemned on the Torreggiani case with a pilot sentence by the European Court of Human Rights for violating the third article of the 1950 European Convention of Human Rights. This condemnation does not concern only the jail which hosted the two pleading prisoners but many other Italian institutions, since almost nowhere the minimal space is guaranteed. The laws impose one person or two person cells, a separate bathroom with a shower in the cells, natural light, a bidet for women. Almost nowhere we find that. In some prisons located in big cities there are dormitories. One person cells may host up to three people. Very rarely we find a shower in the cell. In some prisons there is no running water in the cells during the summer. Hot water is not always available. In some prisons artificial light is always

on because the meshes on the grating at the windows are very narrow in order to avoid objects been thrown out of the windows. Many jails are made of concrete and it is very cold during the winter and very hot during the summer. In some jails there are unheated sections. Air conditioning is nowhere.

d. In all buildings where prisoners are required to live, work or congregate, are there alarm systems that enable prisoners to contact the staff without delay?

No alarm system that enables prisoners to contact the staff is imposed in buildings where they live or work. Only in some prisons it is possible in the cell to switch on an alarm to ask for help. Usually prisoners cannot but shout. During the nights it may happen that there are no agents available for all the sections, so that even if a prisoner shouts he cannot be heard since the cells are closed.

e. Prisoners shall normally be accommodated in individual cells during the night, except where it is preferable for them to share sleeping accommodations. Does this happen in Italy?

The law states that pre-trial prisoners should preferably be accommodated in individual cells. Due to overcrowding, this is a very rare occurrence. For the other prisoners, the law gives no specific provisions. As institutions for prisoners with a final sentence are usually less overcrowded than institutions for pre-trial prisoners, it may more often happen that a prisoner condemned to a long sentence be accommodated in an individual cell. It may happen that a prisoner needing assistance be accommodated with another prisoner who has the task to assist him. Some prisons structurally don't consent prisoners be hosted in individual cells. The overcrowding is so elevated that in January 2013 Italy has been condemned by the European Court with a pilot sentence.

f. Are untried prisoners separated from sentenced prisoners?

The law states that untried prisoners should be kept separated from sentenced prisoners and hosted in specific sections or jails ("case circondariali"). Only prisoners condemned with final sentences can be the object of penitentiary treatment. As a matter of fact in many "case circondariali" prisoners have to undergo a harder penitentiary regimen with a very high number of hours (up to 22) spent in closed cells. Sometime overcrowding makes it necessary a less rigid separation between sentenced prisoners and untried prisoners. The administration of some metropolitan jails maintains that they can no longer keep them in separate sections.

g. Are male prisoners separated from females prisoners?

The law states that women should be hosted in separate institutions or separate sections. This disposition is been complied to. In some institutions particularly careful to social reintegration men and women can be engaged in common activities such as theater, music, learning.

h. Are young adults prisoners separated from older prisoners?

The law states that young adults, namely people having an age between 18 and 25, must be kept separate from the rest of the prisoners. However, overcrowding makes that a very rare occurrence.

HYGIENE

a. When prisoners are admitted to prison, the cells or other accommodation to which they are allocated shall be clean. Does this happen in Italy?

It is not explicitly expected that when a prisoner is admitted to prison the cell or other accommodation in which he is allocated has already been cleaned by someone else. Prisoners clean their own cells. They should be given what is needed to keep it clean. Disciplinary measures have been taken punishing a lack of cleaning of the cell. Because of the lack of funding, what is needed for the cleaning of the cells is been given more and more rarely.

b. Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy. Does this happen in Italy?

In most prisons privacy is not guaranteed because of the overcrowding. The penitentiary police can always look through the spy-hole, even in the bathroom. This is justified by saying that the cell is considered, also by the judges, as a public place. In fact, sexual relations between prisoners is considered a crime as it is an indecent act performed in a public place. In every cell we find a toilet and a sink. Because of the lack of funding in many institutions prisoners don't receive enough toilet paper. Soap, shampoo and toothpaste are always doled out.

c. Do prisoners have access to a bath or shower, at a temperature suitable to the climate, daily, if possible, but at least twice a week (or more frequently if necessary) in the interest of general hygiene?

A law passed in 2000 states that there should be a shower in every cell, in order not to limit the number of showers prisoners can take. However, this is very rare. In many prisons no restructuring works have been made in order to comply with the law and the showers are still common to the whole section. In such cases, often prisoners can take only two or three showers a week, excepting those who work, who are allowed to take a shower when they finish work. In many prisons the rooms where the showers are installed are cold, humid and shabby. Hot water is not always available.

d. Do prison authorities provide inmates with the necessary means to maintain personal hygiene and sanitation, including toiletries and general cleaning implements and materials?

The law states that the administration should give prisoners what they need for hygiene. However, because of the lack of funding they each are sometimes given only one roll or even less of toilet paper per month. Volunteers often buy what the administration cannot provide for.

CLOTHING AND BEDDING

a. Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate. Does this happen in Italy?

The law states that prisoners who do not have clothing of their own are to be given suitable clothing, in particular pajamas and underclothing. In some jails there are textile manufactories producing them out

of poor material. This is increasingly more rare while at the same time there is an increase in the number of very poor prisoners. Much support comes from volunteers, mainly catholic, who take clothing to prisons. During the winter overcoats are often lacking, so that the poorest prisoners give up going out in the open air.

b. Is this clothing degrading and humiliating?

Clothing is not degrading. It is very simple. Coveralls are given to prisoners who work. It is not allowed to wear expensive clothes in order to avoid the risk of creating a social elite in prison.

NUTRITION

a. Prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work. Does this happen in Italy?

In particular cases – diabetics, for example – specific and medically authorized diets are allowed. Religious reasons are also taken into account. During Ramadan prisoners are allowed to eat after sunset and are given raw food which they can cook for themselves at night. Nothing else can be taken into account.

b. How many meals a day are prisoners served? How many of those are warm meals?

Meals are three for adults and four for minors. With adults, supper is more and more often cold. Overall, the administration allots less than four euros per prisoner for the three daily meals. The cooking is assigned either to prisoners who work in the kitchen employed by the administration or to external companies which often employ prisoners as well.

c. How are the requirements of a nutritious diet decided?

The quantity and quality of the food is decided by the Health Department according to the current nutritional standards and on the basis of what is prescribed by the law. A commission of prisoners, supposedly selected at random, controls that the nutritional standards are respected and supervise meal preparation.

LEGAL ADVICE

a. Is there a recognized scheme of free legal aid?

Although in Italy there is a law for free legal aid, free legal aid is not easily accessed. The State pays for the lawyer after a long time. Free legal aid is not consented for what concerns the access to reduction of reclusion time or in the other cases in which technical legal assistance is not compulsory.

b. Where there is a recognized scheme of free legal aid, do the authorities bring it to the attention of all prisoners?

In some jails the admission office may inform prisoners through a leaflet about free legal aid. In others, there may be volunteers giving advice on this subject.

c. Are the consultations and other communications (including correspondence about legal matters) between prisoners and their legal advisers confidential?

The legal adviser may meet the prisoner alone face to face. There can be no free telephone calls between them, but they can write each other confidentially. For prisoners under the special regimen "41 bis" (defined highly dangerous prisoners) limitations are prescribed even in communications with their legal advisers.

d. Do prisoners have access to, or are allowed to keep in their possession, documents relating to their legal proceedings?

All the documents relating the trial are kept in the admission office. Prisoners can apply for a copy but they must pay for it. In some jails they have to wait for a long time. This creates tension and lowers the opportunities of legal aid. Calculation of the time of reclusion pertains to the admission office that informs the judge.

CONTACTS WITH THE OUTSIDE WORLD

a. How many phone calls can a prisoner make per week? Is there a limit to the number of letters that can be sent out? Are there other forms of communication that prisoners can use?

A prisoner can make six telephone calls per month, each ten minute long. He can call only his relatives. He cannot receive phone calls. In some cases the prisoner is given a telephone card consenting him to make the allowed phone calls. In these cases he can call whenever he likes, with more chances to find the person required. In most jails, however, it is the policeman who decides when to give the prisoner the line, thus reducing considerably, particularly for foreign prisoners, the chances of success. Conversations on the phone are listened to by a policeman only when the competent judges order it. Prisoners have no fax, e-mail or the internet.

b. How many visits can a prisoner receive per week? Do the arrangements for visits allow prisoners to maintain and develop family relationships?

A prisoner can receive six visits per month, one hour each. He can cumulate them and even meet three people at one time. He can see relatives, cohabitees and friends if these have been authorized. When there are children, the visit may take place in gardens in order to make their experience less traumatic. For 41 bis prisoners, a dividing glass is prescribed. Sometimes relatives have to wait for hours outside prison before been allowed by bureaucracy to enter. On Saturday and Sunday visits are rarely consented and this makes them difficult for working people. Cohabitees, including gays and not regular immigrants, can usually enter, except in prisons where the administration is very rigid.

c. Whenever circumstances allow, can prisoners be authorized to leave prison, either under escort or alone, in order to visit a sick relative, attend a funeral or for other humanitarian reasons?

In such cases the law consents that a permit be allowed to the prisoner. The judge must evaluate the situation and decide. It happens that a prisoner is not allowed to visit a very sick relative or to go to a funeral. It also happens that the judge allows him to go only under escort and the prisoner, ashamed to be seen in such a situation, decides to give it up.

d. Can prisoners keep themselves regularly informed of public affairs by subscribing to and reading newspapers, periodicals and other publications, and by listening to radio or television transmissions?

Prisoners can buy all freely sold newspapers and magazines. In some cases they can even buy pornographic magazines. They can have a radio. In some jails old regulations still prohibit digital radios. A color television is in every cell. Satellite channels cannot be seen, and therefore in Italy all the most important sport events.

e. Can prisoners communicate with the media (unless there are compelling reasons to forbid this for the maintenance of safety and security, in the public interest or in order to protect the integrity of victims, other prisoners or staff)?

Prisoners can usually communicate with the media, except for those who have been explicitly forbidden by the judge. They can be interviewed with the consensus of the administration. Indicted prisoners need also an authorization of the judge. For some years the administration has been consenting journalists, even with television cameras, to enter jails without many restrictions.

f. Can prisoners participate in elections and referenda?

Prisoners condemned to more than five years of jail lose the right of vote. The others can vote. The administration must inform the Municipalities in order to set special polls. As a matter of fact, only a very small percentage of prisoners votes.

PRISON REGIME

a. Does the prison regime offers a programme of activities?

The Italian Constitution states that punishment should tend to the reeducation of the sentenced prisoners. Italian prisons have differentiated standards. In each jail the quality and the quantity of the organized activities depend on various factors: the good will of the warden, the dedication of the operators, the attitude of the local institutions, the presence of volunteers and cooperatives. There are jails where the activities are many and well organized, while there are jails where the prisoners have nothing to do and stay in their cells watching tv all day long.

b. How many hours a day do prisoners spend outside their cells to improve human and social interaction?

The law states that it should be consented to prisoners who do not work in the open air to spend outside at least two hours a day. Such a period of time can be reduced to no less than an hour a day only for exceptional reasons. In actual fact up to four hours are consented in the open air each day. In the “case circondariali” prisoners sometimes spend almost the rest of the day restrained in their cells. In the institutions for sentenced prisoners the number of hours spent outside the cell is higher (from

six to eight), and prisoners can walk in the section or go into other cells for social interactions. Only in some exceptional cases the wardens allow that the number of hours spent outside the cell be equal to the number of hours spent within it and that the cell be used only for sleep.

c. Is there any particular attention given to the needs of prisoners who have experienced physical, mental or sexual abuses?

There is nothing specific written in the law. In some prisons individual or group psychological support is provided.

WORK

a. Do prison authorities provide work opportunities (either on their own or in co-operation with private contractors, inside or outside prison)?

The law consents both work for the penitentiary administration and work for private companies. The work outside the prison is allowed, except for crime considered of great entity. As a matter of fact only about one prisoner in five works and this because there is a lack of funding. The law states that general and specific (on the basis of the professional competences) lists be drawn according to precise criteria by a commission formed of representatives of the trade unions. It rarely happens. Usually the head of the police in the institution decides, occasionally consulting the educator.

b. Are work opportunities encompassing vocational training provided for prisoners able to benefit from them (especially for young prisoners)?

Personal vocational training is rarely taken into account. To be allowed to work is considered good luck whatever work it is. Work is sometime used to befriend prisoners or to convince them to become informers of the police.

c. The organization and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life. Does this happen in Italy?

It does not happen for what concerns work under the penitentiary administration. It is unqualified work, even named disparagingly. Prisoners are not allowed to strike and cannot join trade unions. However, they have holydays and weekly breaks.

d. Are prisoners remunerated fairly in relation to the outside world? Are there some restrictions in the use of remuneration?

By law prisoners must be given a salary not inferior to the two thirds of that stated for the same job by the national contract. Parts of the salary is kept to pay for food and fines. Salaries have been blocked for the past twenty years and more, in spite of very many petitions of prisoners who regularly win at court.

e. Are there any health and safety precautions for prisoner workers in order to protect them adequately? Are these the same precautions that are applied to workers outside?

Prisoners are guaranteed the same health and safety precautions of outside workers.

f. Are prisoners who work included in the national social security system?

Prisoners are regularly employed so that they have the right to social security.

EXERCISE AND RICREATION

a. Does every prisoner have opportunity for at least one hour of exercise every day in the open air, weather permitting?

All prisoners can practice physical activity during the hours that they spend in the open air. In some cases the open air spaces however are very narrow. In some jails there are soccer or basket grounds regulated by a weekly program.

b. Are there appropriate installations and equipment, in order to facilitate such activities?

In some jails there are also gymns. But in some prisons everything is lacking, even soccer balls, and prisoners must confide in the volunteers.

EDUCATION

a. What kind of educational programmes are there in Italian institutions?

Almost everywhere we can find literacy courses for foreigners as well as primary and post primary school courses. In almost all institutions for sentenced prisoners there are high school courses (a few "licei" and many technical institute courses). There are also some standing agreement (about ten in the whole of Italy) between prisons and universities, according to which a small jail section is appointed for student prisoners. The university assures tutoring and exams.

b. How many prisoners are attending an educational programme (for each kind of educational program)?

About 3.000 prisoners are enrolled in literacy courses. A slightly smaller number are those enrolled in primary school. There are more than 4.000 in post primary school and about the same number in high school. The percentage of prisoners passing from one class to the next varies from 35 to 50% approximately, also depending on the obligatory transfer. The prisoners enrolled in university are a few hundreds. Professional training courses are about 250 with about 3.000 enrollments, about 2.000 passing from one course to the next. Many professional training courses, however, are little useful for finding a job.

c. Do these educational programmes take place under the auspices of external educational institutions?

High school courses are run by the Department of Education, more rarely prisoners are taught by volunteers. The rest of the schooling system is always run by the Department of Education. It is usually volunteers who help university students.

d. Does every institution have a library? Is it adequately stocked with a wide range of both recreational and educational resources, books and other media? Are books available in different languages? Is it connected with public libraries in the outside community?

A library is in almost all Italian jails. There is a commission, partly composed by prisoners, who select the books on the basis of cultural pluralism. All external donations are accepted. Some libraries are well equipped, others are very poor. In some cases prisoners can go to the library and easily choose a book, in others they have to apply for a book and wait till it is brought to them. In some cases there is only one central library. In the case of big jails, there are small libraries within the sections. Foreign language books are often missing, particularly in the Arabic and Slavic languages. Only rarely there is a computerized catalogue. Even more rarely the library is connected on line with external libraries.

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

a. Is the prison regime organized so far as is practicable to allow prisoners to practice their religions and follow their beliefs, to attend services or meetings led by approved representatives of such religions or beliefs, to receive visits in private from such representatives of their religions or beliefs and to have in their possession books or literature relating to their religions or beliefs?

Each prison is to have a catholic chaplain and access to other religious ministers is to be allowed. This happens also in practice. Although it should be said that jails are not frequently attended by the Imams. The catholic chapel is often where all religions celebrate. Muslims are consented to pray in their cells and to celebrate Ramadam. There are not enough copies of the Alcoran.

INFORMATION

a. Are all prisoners informed about any legal proceedings in which they are involved and, if they are sentenced, the time to be served and the possibilities of early release?

Prisoners can receive information about their trial in the admission office where they can find police agents specialized in judicial subjects. They can also receive information from the educators concerning the consented legal benefits.

PRISONERS' PROPERTY

a. Are prisoners entitled to purchase or obtain goods, including food and drink for personal use? Are the prices of these goods similar to those charged for comparable goods in free society? Is the quality of these goods the same as that of comparable goods in free society?

Prisoners can purchase goods, including food and beverages, chosen from a list provided by the warden. Prices should be the same as those in a big supermarket near the jail and it should be monitored by the Municipality. An external company runs the shop. The quality changes from jail to jail. Many are the complaints about high prices, low quality and narrow choice.

RELEASE OF PRISONERS

a. Are released prisoners provided with immediate means of subsistence; are they suitably and adequately clothed with regard to the climate and season, and are they afforded sufficient means to reach their destination?

The law states that, if the released prisoner has not the means to reach his home, the warden, if required, gives him the necessary travel tickets. As a matter of fact, this rarely happens. In the case of a person whose residence is abroad, the warden should provide for the tickets necessary to reach the Consulate of the Country of which the released prisoner is a resident. However, as a matter of fact this is also a rare occurrence. The law also states that the social services and the volunteers cooperate to contact the family he is going to stay with. Nothing else is provided.

b. Are released prisoners assisted in finding suitable accommodations and work?

Practically never, excepting when the volunteers look to it.

WOMEN

a. Are special provisions made for the sanitary needs of female prisoners?

The law does not state anything specific for female prisoners' sanitary and hygienic needs, except that women must be allocated in cells provided with a bidet. As a matter of fact, the bidet very often lacks. There is not a special law for female detention. The law only states that in every woman prison there should work special sanitary services for pregnant women and for women with babies.

b. Are prisoners allowed to give birth outside prison?

Yes, they are. And almost always they do. In 2007, a woman gave birth in the female prison of Rebibbia (Rome).

JUVENILE PENITENTIARY SYSTEM

a. Are minors (aged less than 18) detained in establishments specially designed for the purpose?

There are special prisons destined to minors that commit a crime when they are between 14 and 18 years old. They stay in these special prisons until they reach the age of 21, when they are transfer in adult prisons. Justice administration for minors is separated from that dealing with adults.

b. Does every prisoner young enough to yet be subject to compulsory education have access to such education?

It may happen that the shortness of the period spent in prison does not permit the child to be inserted in a school class. Furthermore, it should be noted that not always the compulsory education courses are directly organized, as it should be, from the Department of Education.

INFANTS

a. How many infants are there in Italian detention facilities?

Children aged less than three years who live in jail with their mothers are around 50. According to the law, special institutions for mother prisoners with children should be realized, but up to now only one is working in Milan.

b. How many years after birth can the infants stay in the institution?

When a child becomes three years old he or she must leave the prison. According to the law, the mother can leave the prison with her child in a special form of house detention when she has served a definite portion of the sentence, except in case there is a risk that the woman will commit the crime again or when she has not the opportunity to live with the child. As a matter of fact, the women obtain this special form of house detention too rarely.

c. Are there nurseries, staffed by qualified personnel, where the infants may be placed when the parents are involved in activities which do not permit for the infants to be present?

Not everywhere there are nurseries and qualified persons for infant care. Usually the mother is the only one that has to take care of the baby. There are playground areas. The children sleep close to their mothers. In some cases children can attend an outside public baby school. The worst situations concern those children living not in a female prison but in a female section hosted in a male prison, where there are not services for them. Usually the administration tries to avoid that those situations last for long periods.

d. Are there special accommodations in the prison to protect the welfare of the infants?

The cells in which children live are similar to the others. In the nurseries, they live with other mothers with children who have access to some cooking facilities and to a small garden. Policemen wear the uniform. The good will of the staff makes the difference in taking care of the babies.

FOREIGN NATIONALS

a. Can prisoners who are foreign nationals request contact, and be granted reasonable means to communicate with the diplomatic or consular representatives of their state?

Foreign prisoners can always request to have a contact with the diplomatic or consular representatives of their Country, who should visit him in prison. However, these representatives not always come to visit him soon.

b. Are prisoners who are foreign nationals informed of the possibility of requesting that the execution of their sentence be transferred to another country?

The information regarding the possibility of executing the sentence in the Country of origin (Strasbourg Convention) or the information regarding the expulsion as an alternative measure to detention for people who has to serve a less than two year sentence is not automatically given by the Italian authorities. There is not an explicit obligation about that. Educators or policemen in the admission office may sometimes give such information.

c. Are prisoners who are foreign nationals divided by country of origin within the sections of each institution?

When it is possible, the direction of the institution prefers to keep together those prisoners who speak a common language, in order to avoid troubles. But something like ethnic sections are tried to be avoided as well.

d. Are interpreting services available to foreign nationals?

There are interpreters and cultural mediators, but they are very few with respect to the needs. The law does not impose the employment of cultural mediators, but it maintains that they play a very relevant role.

ETHNIC MINORITIES

a. Are there any particular ethnic minorities among the prison population? What is their percentage of the total prison population?

Roma, Sinti and Camminanti are the only ethnic minorities in Italian prisons. Their number are not calculated by the penitentiary administration. There are many (around 3.700) Romanian prisoners and there are also Bosnian (around 250) prisoners. We may think that some of them are Roma. There is a high percentage of Roma in the juvenile prison system because they have hardly access to the alternative to detention. There is as well a high percentage of Roma in the woman prison system. Many mother prisoners are Roma.

HEALTH

a. Are medical services in prison organized in close relation with the general health services of the community or nation?

Since 2008 medical services in prison belong to the National Health Service. The law is inspired to the principle of universality and of the same health treatment as free people.

b. Are all necessary medical, surgical and psychiatric services (including those available in the community) provided to the prisoners?

As a matter of fact, medical, surgical and psychiatric services are insufficient. Not in every prison you can find a physician along the whole of the 24 hours. In some prisons, there are services of micro-surgery. Very often the medical services has not a high quality and pay not enough attention. Health care is the big problem of Italian prisons. There are not enough prevention, diagnosis and therapy. Prisoners cannot be regularly visited by the physician they used to consult before detention.

c. Is there at least one qualified general medical practitioner in every institution?

In every institution there is at least one general medical practitioner who is responsible of the medical services.

d. Are the services of qualified dentists and opticians available to every prisoner?

Dentists and opticians go to prison both periodically and when they are called by the general physician. The prisoners' needs are not satisfyingly met. Many prisoners, in particular drug addicted prisoners, have dental problems. In the past years dental prosthesis used to be freely distributed in great number. Nowadays, because of the lack of funding, this happens very rarely.

e. Are prisoners suspected of infectious or contagious diseases isolated for the period of infection and provided with proper treatment?

Solitary confinement for health reasons is prescribed by the law and it is assured in the practice. There are special sanitary sections devoted to this kind of solitary confinement.

f. Are sick prisoners who require specialised treatment transferred to specialty institutions or to civil hospitals, when such treatment is not available in prison?

The law states that visits and hospitalizations outside prison are possible. Inside prison, in fact, there are not enough health services (rarely micro-surgery, rays, eco and CAT in the institutions where there are clinical centers). However, the visits in external hospitals are effectuated with great delays. This is justified by saying that there are not enough police staff for the transfers. Sometimes the delays cause bigger health problems in the patients and even death. Some cities have special sections for prisoners in the public hospitals.

g. Are persons who are suffering from mental illness and whose state of mental health is incompatible with detention in a prison detained in an establishment specially designed for the purpose?

Persons who are suffering from mental illness, who have been acquitted because unfit to plead but at the same time who are considered dangerous, are hosted in the judicial psychiatric hospitals until the judge certifies that they are no more dangerous for the society. It happens that a person considered no more dangerous for the society continues to live in the judicial psychiatric hospital because there is no place where the judge can dispose the patient to go. In the judicial psychiatric hospitals are also hosted those prisoners who suffer of a mental illness during detention. There are around one thousand people in the judicial psychiatric hospitals. The law prescribes the transformation of these institutions in smaller health communities. Sections devoted to psychiatric care have more and more been creating within the prisons. Psychopharmacological drugs are used in a high quantity.

h. What is the treatment available for drug users and for drug addicts in prison? Are there harm reduction programmes?

Drug addicted prisoners are in charge of special health services, provided with physicians and psychologists. The methadone is given, often according to a graduated therapy progressively decreasing the doses. Somewhere a preventive information is given, about drugs and connected risks. There is nowhere syringes distribution.

ORDER

a. Are there any special commissions composed of prisoners with the aim of discussing issues related to detention conditions? How are they constituted?

The law states that some prisoners should be part of the commission devoted to the evaluation of the food cooked in prison and of the commission devoted to the evaluation of the lists for the admission to the work (but usually the lists do not follow the law). The law also states that some prisoners should be part – together with the warden, the educators and the social assistants – of the commission that organizes the cultural, sporting and recreational activities. This not always happens. It should also be said that the prisoners chosen for being inserted in the commissions are often those prisoners who are considered less troublesome.

SECURITY

a. What are the main security measures applied to individual prisoners? How are they applied?

Prisoners are controlled many times a day. In some prisons they are searched after every activity (school, meeting with relatives, etc.). In some prisons there still exist the habit of beating the bars in order to be sure that a jailbreak is not been planned. Recently the penitentiary administration has started experimenting the “dynamic security”, that is to say a form of control based on prisoner’s responsibility, where it is no more disposed that one policeman follow a single prisoner in all his movements, as it now mainly happens. This presupposes that the police staff be acquainted with the prisoners.

b. According to the training course of the prison staff, how should security measures be applied?

Nowadays the training courses for law officers entirely concern the “dynamic security”. Since four or five years ago, these training courses have been reaching a very high standard, being not based on traditional notions of security measures.

SEARCHING AND CONTROLS

a. How are visitors (such as legal representatives, social workers, volunteers, etc.) controlled by the prison staff? Is special equipment, such as metal detectors, used?

All authorized visitors must pass through the metal detector. They must be identified and they must leave their mobile phones. They are not manually searched. On the contrary, the prisoners’ relatives are sometimes manually searched, even through internal body searching.

DISCIPLINE AND PUNISHMENT

a. Are disciplinary procedures used as a mechanism of last resort?

Disciplinary procedures are not used as a mechanism of last resort. In many cases, they constitute the ordinary form of prison management. It can be sufficient to answer to a policeman for receiving a disciplinary punishment.

b. What are the main types of punishment of prisoners? How are they applied?

The range of the punishments goes from the simple note written by the warden to the exclusion from the common activities (solitary confinement). Every punishment is communicated to the surveillance judge, who almost automatically cancel the reduction of the period of detention (45 days every six months) that the law assigns to the prisoners who behave correctly.

c. Can a prisoner who is found guilty of a disciplinary offence appeal to a competent and independent higher authority?

The prisoner can appeal only about the composition of the disciplinary body, that the law states should be composed by the warden, the educator and the physician.

INSTRUMENTS OF RESTRAINT

a. What are the main instruments of restraint used in prison? How are they used?

Detainees are not tied in any way when in prison. Often handcuffs are used during transfer. The use of handcuffs should be justified, but it does not always happen.

WEAPONS

a. Can prison staff hold and use lethal weapons within the prison perimeter?

The policemen working inside the institutions cannot hold weapons except in exceptional cases when the warden disposes it. As a matter of fact, policemen never hold weapons in prison.

USE OF FORCE

a. Under which conditions can prison staff use force against prisoners?

Prison staff cannot use force except when it is necessary in order to prevent or avoid violent acts, to prevent jailbreaks or to contrast a prisoner who resists, even passively, to the execution of some order that he received. Prison staff that, for some reason, has used physical force against a prisoner should immediately inform the warden, who should suddenly dispose a medical visit and start suitable investigations. No instrument of physical restraint can be employed that is not explicitly mentioned by the law and, in any case, it cannot be employed for disciplinary reasons. The use of the force should last only for the strictly necessary while and should be always monitored by a physician. Unfortunately, violence is used in many cases.

b. Can other law enforcement agencies be involved in dealing with prisoners inside prison? If so, under which circumstances?

In the case of a very extreme riot, the warden – and only him – can ask for the help of external police enforcement. This is never happened during the last decades.

REQUESTS AND COMPLAINTS

a. Do prisoners (and their families) have the opportunity to make requests or complaints to the director of the prison or to any other competent authority?

Prisoners (but not their families) can present a complaint to the warden, to the surveillance judge or to other authorities listed by the law. The surveillance judge is not forced to carry on a procedure that respect fundamental rights. The judge can decide without the prisoner's presence, except in some cases specified by the law (the composition of the disciplinary body and the salary received by a working prisoner). The Supreme Court stated that this simplified procedure is not correct and does not furnish the due guarantees. However, the Parliament has never changed the law. What happens is that the judge decides upon the complaint without doing investigations and trusting what is said by the warden.

MANAGEMENT AND STAFF

a. Give number of administrative staff, prison officers, and educational staff (per prisoner) that work inside prison facilities.

In Italy there are more than 40.000 penitentiary policemen (1,8 per prisoner). One tenth is employed in activities not related with the internal prison security. There are around 1.000 educators and around 1.000 social assistants (1 per 60-70 prisoners). The wardens and deputy wardens are around 500 (1 per 120-140 prisoners). The surveillance judges are less than 200 (1 per around 330 prisoners).

b. Give percentage of staff gender per function (i.e. administrative, officers, educational).

We don't have certain data on this topic. We guess that about one tenth of the police staff is composed by women. In recently employed police staff, the percentage of women is much higher. In the rest of the prison staff, the percentage of women is much higher and it is more than 50% among educators and social assistants.

c. Are there some special units among prison officers?

There are special groups dealing with terrorism and mafia prisoners.

SENTENCED PRISONERS

a. Are there individual sentence plans for sentenced prisoners (including work, education, other activities, and preparation for release)?

According to the law, every sentenced prisoner should be "scientifically observed" in his personality by a team composed by the warden, the educator and the social assistant (to which sometime the psychologist and the head police officer are invited), and should receive an individual penitentiary treatment. The team should program an individual plan for the prisoner's social reintegration. As a matter of fact, this is usually accomplished but with difficulty because of the lack of not custodial staff. Often the reintegration programs consist only in indications telling if the prisoners have or not have enough merits to make access to some alternative measure.

b. Are sentenced prisoners encouraged to participate in drawing up their individual sentence plans (that should include work, education, other activities, and preparation for release)?

It rarely happens that sentenced prisoners are encouraged to participate in drawing up their individual sentence plans. Sometimes is the educator who tries to encourage the prisoner to participate.

c. Is there a system of prison leave as an integral part of the overall regime for sentenced prisoners?

There are not courses organized with the aim of preparing prisoners to be released.

d. Can prisoners be involved in programmes of restorative justice and in making reparations for their offences?

There are not structured programs of restorative justice. Sometimes the surveillance judges prescribe – among the prescriptions to be respected during an alternative measure or in order to have access to it or to a pre-release measure – reparation measures or prescribe that the prisoners ask the victims for forgive. It may happen that the volunteers organize programs of restorative justice with the victims and the authors of the crimes.

e. How many prisoners are serving sentences of more than 10 years of imprisonment?

3.895, included prisoners serving life sentence.

LIFE SENTENCE

a. Is the sentence of “life in prison” available the penal code?

Yes, it is. In 1981 there was a referendum for abrogating it, but it failed. People voted for maintaining life sentence.

b. Are there any alternative measures for prisoners serving life sentence provided in the criminal justice system?

Both alternative measures (semi-liberty, a custodial measure allowing part-time outside prison, after having served 20 years) and “*liberazione condizionale*” (suspended sentence, after having served 26 years) are provided.

c. Are there prisoners serving *actual life sentence* (i.e. a life sentence without any possibility of reduction or admission to leaves or any measure alternative to life imprisonment)?

Prisoners condemned for specific crimes (among which mafia and terrorism) have access to alternative measures only if they cooperate with justice. Then, if a prisoner serving life sentence for one of those crimes does not cooperate with justice, maybe because he has no information to provide to the judges, he will be an “actual lifer”. “Actual life sentence” in Italian is called “*ergastolo ostativo*”. The number of prisoners serving “*ergastolo ostativo*” is not exactly calculated but it seems to be around 800.

d. How many inmates with life sentence are there (and their percentage of the total prison population)? 1.581 (2,4% on the total prison population).

e. Are special sentence plans (regarding work, education and other activities) provided for prisoners serving life sentence? Are these sentence plans drawn up individually, taking into account the needs of each inmate serving such a sentence?

As for the other convicts, the sentence plans for lifers are drawn up individually. There are not special plans, but there is a specific attention due to the long sentence. When lifers are considered reliable, they are more often collocated in a working position where they benefit from the trust of the warden.

f. Do prisoners serving life sentence stay in a single cell or share it with other inmates?

They should be allocated in a single cell, but not always overcrowding permits such an allocation.

ALTERNATIVE MEASURES

a. How is the notion of “alternative” to detention defined?

An alternative measure is a not custodial measure or a partly custodial measure (to stay in prison during the night) to which a prisoner can have access when he has served a definite portion of the sentence if he is considered to be ready for an external reintegration program. Some prisoners that have committed a certain kind of crimes (e.g. mafia and terrorism) can have access to alternative measures only if they cooperate with justice.

b. What are the main alternative measures to detention being used (give absolute numbers)?

The alternative measures in Italy are: to be involved in social service programs (6.803 as at 31st December 2012), to be involved in social service programs in particular cases (in cases of drug addiction and alcohol addiction: 3.186), semi-liberty (858), home detention (9.139). Technically, the possibility of spending some days outside prison (*permesso premio*) and the possibility of working outside prison (*lavoro all'esterno*) are considered elements of the penitentiary treatment and not alternative measures.

c. Are they imposed before (as alternative to punishment) or during conviction (as alternative to prison)?

They are decided by the judge during conviction, as alternative to prison.

INSPECTION AND MONITORING

a. Has Italy signed/ratified/acceded the OPCAT? If yes - when?

Yes. Italy signed Opcat in 2003 and ratified it at the end of 2012. Formally Opcat is entered into force in April 2013.

b. Is the National Preventive Mechanism (NPM) set up, designated or maintained? If yes - when?

No. At the moment there is a proposal of law pending in the Senate.

c. If the NPM exist, which type of the NPM is it (a separate body; a separate department within the National Human Rights Institution (NHRI)/Ombudsman's Office; NHRI or Ombudsman's Office itself; NHRI or Ombudsman's Office together with non-governmental organisations/experts; several separate bodies etc.)?

NPM does not exist.

d. Are the mandate and powers of the NPM clearly set out in a constitutional or legislative text?

NPM does not exist.

e. Is the visiting mandate of the NPM extended to all places of deprivation of liberty?

NPM does not exist.

f. Does the NPM have its own budget? If yes - please, indicate its annual amount. If not - please, specify how the NPM is financed.

NPM does not exist.

g. Does the NPM have its own staff? If yes, how many people are employed there, and what is their professional background? If not, please, specify who fulfils the duties of the NPM?

NPM does not exist.

h. Are there any other inspection and monitoring bodies dedicated to prisons, and if so what are they?

Yes, there are. The law states that one of the tasks of the surveillance judges is the legal supervision of prisons. The surveillance judges have a visiting mandate and can talk with prisoners, who can also file a complaint with them. However, traditionally the surveillance judges have not fully accomplished their mission of prison supervision, because of the many other tasks the law assigns them (to evaluate the possibility of admission to alternative measures, to authorize volunteers to enter prisons, to evaluate the request of sending a prisoner to an external hospital, etc.). National and regional parliamentarians can visit all prisons without restrictions. Since 2003, some Municipalities and some Regions have been appointing local and regional prison Ombudsmen. However their overall number is not high at the moment and they can intervene only on issues depending on Municipalities or Regions. For instance, regional Ombudsmen can intervene on matters related to the Health System but none of them has any power on security issues. A recent law gives them visiting power in the prison facilities of their Municipality or Region. The Ong Antigone is authorized year by year by the Ministry of Justice to visit the prisons with the same power that the law gives to the Parliamentarians.

ILL-TREATMENT

a. Who investigates prisoners' complaints of ill-treatment by prison staff or by other prisoners (inter-prisoner violence) in Italy (internal investigative body of the prison; external investigative body; prosecutor's office, etc.)?

The public prosecutor's office is in charge of the penal investigations. There are no specialized investigative corps who carry on these kinds of investigations. Italian penal code lacks the crime of torture. An investigative body is also active within the penitentiary administration. It can start disciplinary proceedings against members of the staff. The warden can also start disciplinary proceedings against members of his or her staff while he or she can enforce disciplinary proceedings against prisoners.

b. Is it possible for a prisoner to appeal the decision of the investigative body? If yes - to whom?

There are three degrees in Italian penal trials. Like everybody else, also prisoners can appeal as far as the third degree. After a penal sentence which recognizes that the prisoner has been ill-treated, he can obtain an economic redress in a civil suit.

c. Are statistics available on the number of prisoner complaints of ill-treatment by the prison staff and by other prisoners (inter-prisoner violence)? If yes, please provide the numbers.

No.

d. Are statistics available on disciplinary/criminal proceedings initiated with regard to ill-treatment by the prison staff and by prisoners (inter-prisoner violence)? If yes, please provide the numbers.

As to penal actions, lacking a specific crime of torture it is very difficult to classify the cases of ill-treatment against prisoners. However, judicial statistics gather data concerning all penal lawsuits. As to the disciplinary ones, the penitentiary administration certainly takes note of them, but the information has never been made public.

e. Are statistics available on the outcome of disciplinary/criminal proceedings with regard to ill-treatment by the prison staff and by prisoners (inter-prisoner violence)? If yes, please provide how many proceedings have resulted in disciplinary/criminal sanctions. If possible, please specify which kinds of sanctions (fines, suspended sentence, imprisonment, etc.) are most applied.

No.

EFFECTS OF THE ECONOMIC CRISIS

It is not easy to evaluate the effects of the economic crisis on the Italian penitentiary system. Prison population is slowly but progressively decreasing. On December 31st 2013, Italian prisons hosted 62.536 detainees (being less than 62.000 at mid-January 2014, according to unofficial data), while on December 31st 2012 they were 65.701. The economic crisis played a role in that process, as it reshaped the Government priorities as well as the social worries. Thus, it has become possible to assume some reformative measures because of the reduced concentration on the moral panic regarding individual security. Furthermore, the lack of resources has worsened the quality of penitentiary daily life – also affecting overcrowding, as many prison sections have been closed because of the lack of funds for their maintenance – inducing media to talk about very degrading prison conditions. In 2011, at the core of the economic crisis, robberies have increased of 15% with respect to 2010 and house thefts of 28%. On the whole, the number of crimes reported to the authorities has increased of 5.4% (murders are stable around 500-550 for year, while during the Eighties were around 2.000).

SUSANNA MARIETTI

Susanna Marietti is the national coordinator of Antigone. She has been working at the Observatory on Italian prisons almost since its birth, promoting campaigns and cooperating to the Reports. She wrote essays on Italian penitentiary system as well as on contemporary philosophical topics. She authors and conducts “Jailhouse rock”, a musical radio broadcast dealing with prison issues.

ANTIGONE

Antigone is an Italian Ngo born in 1991 and dealing with human right protection in penal and penitentiary system.

Antigone carries on a cultural work on public opinion through campaigns, education, media, publications and the academic journal «Antigone» (three issues for year).

Antigone cooperates in writing normative texts on penal and penitentiary matters. An Observatory on Italian prisons, involving around 50 people, is also active since 1998, when Antigone received from the Ministry of Justice special authorizations to visit prisons with the same power that the law gives to parliamentarians. Every year Antigone’s Observatory publishes a Report on Italian penitentiary system. Through a prison Ombudsman to which it gave birth, Antigone also collects complaints from prisons and police stations and mediates with the administration in order to solve specific problems. Furthermore, Antigone’s lawyers and physicians operate in some Italian prisons giving suggestions and monitoring life conditions. Antigone also carries on investigations about ill-treatments and sometimes is formally involved in the related trials.



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